

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

Jerry L. Alston,	:	
	:	C.A. No. 06-02-0108AP
Plaintiff below/	:	
Appellant,	:	
	:	
v.	:	
	:	
Trinette R. Scott,	:	
	:	
Defendant below/	:	
Appellee.	:	

Submitted: May 10, 2006

Decided: May 10, 2006

Decision on appeal from the Justice of the Peace Court.

Appellant's appeal is dismissed for lack of jurisdiction.

Jerry L. Alston, 406 Arnold Court, Generals Green, Dover, Delaware 19901, Pro Se Appellant.

Trinette Scott, 107 Lawn Drive, Apt. 3C, Smyrna, Delaware 19977, Pro se Appellee.

Trader, J.

In this civil appeal from the Justice of the Peace Court, I conclude that the appeal was not perfected within fifteen days of the date of judgment as required by 10 Del. C. Sec. 9571. Accordingly, the appeal is dismissed for lack of subject matter jurisdiction.

The relevant facts are as follows: On January 20, 2006, judgment was entered in behalf of the appellant and against the appellee for the sum of \$400.00, plus court costs. On February 9, 2006, the appellant filed a motion with the Justice of the Peace Court for an amendment of the judgment and this motion was denied by the court below on February 15, 2006. On February 27, 2006, the appellant filed a notice of appeal and accompanying documents with this Court. The appellant has never filed a complaint in this Court, but has instead filed a motion for relief of the judgment entered in the court below.

10 Del.C. Sec. 9571 permits an appellant a right of appeal to the Court of Common Pleas from any final order, ruling, decision, or judgment of the court in a civil action. It further provides that an appeal shall be taken within fifteen days of the final order, ruling, decision, or judgment.

The courts have interpreted this section as a jurisdictional statute. *Williams v. Singleton*, 160 A.2d 376 (Del. 1960). It has been held that if the statute has not been complied with, the appellant court has no jurisdiction. *Adamski v. Ruth*, 229 A.2d 837 (Del. 1967). Where an appeal under this section was not filed in time under the statute, this court is without jurisdiction to entertain the appeal. *Dzedezej v. Prusinski*, 259 A.2d 384 (Del. Super.1969). The judgment was taken in the court below on January 20, 2006 and the appeal was not taken until February 27, 2006. Therefore, the appeal was not perfected before the expiration of the fifteen days permitted.

Additionally, the untimely filing of a post-trial motion does not extend the time for filing an appeal. *Fisher v. Biggs*, 284 A.2d 117 (Del. 1971); *Preform Building Components v. Edwards*, 280 A.2d 697 (Del. 1971). In the Justice of the Peace Court post trial motions must be filed within ten days. Justice of the Peace Court Civil Rules 62 and 59. Since the appellant's motion in the court below was filed more than ten days after the entry of judgment, his untimely motion does not extend the time for filing an appeal.

Since the appellant failed to perfect his appeal within fifteen days as required by Section 9571, this Court has no jurisdiction over this appeal. Accordingly, the appeal is dismissed for lack of jurisdiction.

IT IS SO ORDERED.

Merrill C. Trader
Judge